

Appl. No. 09/218,411
Amdt. dated June 30, 2004
Reply to Office action of Mar. 31, 2004

REMARKS/ARGUMENTS

Applicant notes with appreciation Examiner's allowance of claims 1-21, as indicated on page 3 of the Office Action. Accordingly, the following submissions are made only with respect to remaining claims 22-28.

The Examiner has objected to claims 22 and 27 because of the following informalities:

In claims 22 and 27, Applicant is required to write "the SMS message" in complete form.

Claims 22 and 27 have been amended to recite the complete form: "Short Message Service (SMS)". Therefore, Applicant respectfully submits that amended claims 22 and 27 are allowable in their present form, and respectfully requests that the Examiner withdraw the objections thereto.

The Examiner has rejected claims 22, 26 and 27 under U.S.C. 102(e) as being anticipated by Mattaway et al. (US Pat. No. 6,226,678 B1). Anticipation is only established if all the elements of an invention, as stated in a patent claim, are identically set forth in a single prior art reference (see *Gechter v. Davidson*, 116 F.3d 1454, 1457, 43 USPQ2d 1030, 1032 (Fed. Cir. 1997); *Transclean Corp. v. Bridgewood Services, Inc.*, 290 F.3d 1364, 62 USPQ2d 1865 (Fed. Cir. 2002)).

Independent claim 22 of the present application is for "[a] method of initiating digital cellular communications over the Internet between a first Internet protocol enabled device and a second Internet protocol enabled device comprising the steps of: generating a Short Message Service (SMS) message with the Internet Protocol (IP) address of the first Internet protocol

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enabled device embedded therein; forwarding said SMS message to the second Internet protocol enabled device; extracting the IP address from said SMS message; and using the IP address to connect the second Internet protocol enabled device to the first Internet protocol enabled device over the Internet" (emphasis added).

Independent claim 27 of the present application is for "[a] method of initiating digital cellular communications over the Internet comprising the steps of: receiving a Short Message Service (SMS) message with an Internet Protocol (IP) address embedded therein; extracting the IP address from said SMS message; and using the IP address to connect to an Internet protocol enabled device" (emphasis added).

Mattaway teaches a "[f]irst processing unit generates an E-mail signal, including a session number and a first IP address corresponding to a first processing unit" (col. 12, lines 18-20). The "[f]irst processing unit transmits the E-mail signal as a <ConnectRequest> signal to the Internet" and the "E-mail signal is delivered through the Internet using a mail server to the second processing unit" (col. 12, Lines 21-24). The "[s]econd processing unit extracts the session number and the first IP address from the E-mail signal" and "transmits or sends the session number and a second IP address corresponding to the second processing unit back to the first processing unit through the Internet" (col. 12, Lines 25-29). Mattaway then teaches that the "[f]irst processing unit verifies the session number received from the second processing unit" and "establishes a point-to-point Internet communication link between the first processing unit and second processing unit using the first and second IP addresses" (col. 12, Lines 30-34).

On page 2 of the Office Action, the Examiner has stated that Mattaway discloses a first processing unit that "generates an Email signal (SMS message)". It appears that the Examiner has equated the "Email signal" taught in Mattaway with a "SMS message", however, Mattaway itself does not refer to a "SMS message". Applicant submits that the "Email signal" taught in Mattaway and a "SMS message" are not equivalent.

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Indeed, in the present application, Short Message Service (SMS) is defined as providing a mechanism for transmitting short messages to and from digital cellular handsets, where a Short Message Service Center (SMSC) is used to store and forward short messages to cellular handsets, and the digital cellular telecommunications network is used to transport SMS messages. E-mail, as taught in Mattaway, clearly refers to an Internet software application (see col. 2, lines 9-13; col. 4, lines 61-67; col. 5, lines 1-4; col. 7-8, lines 56-65), whereby an “E-mail signal” is transmitted “to the Internet” and is “delivered through the Internet using a mail server” (col. 12, Lines 21-24).

Internet e-mail and SMS are clearly distinct technologies. Typically, Internet e-mail is delivered directly to an Internet-connected host accepting mail for the recipient, using Simple Mail Transfer Protocol (SMTP). The Internet e-mail address is a string of the form *jsmith@domain.example*. Users download their messages from mail servers usually with either the Post Office Protocol (POP) or the Internet Message Access Protocol (IMAP).

In contrast, SMS messages are transported by means of the digital cellular telecommunications network. When a short message is sent to a destination device using SMS, it is received by a SMSC. The SMSC acts as a store-and-forward system for the message. The SMSC is responsible for delivering the message to the destination device. As the destination device may be mobile, the digital cellular network provides mechanisms to find the destination device. The SMSC requests routing and status information for the device from a Home Location Register (HLR). If the destination device is active, the SMSC will attempt to deliver the message. If the destination device is inactive, the SMSC may store the message for a period of time. When the destination device becomes active, the HLR notifies the SMSC, and the SMSC will attempt delivery.

Anticipation is only established if all the elements of an invention, as stated in a patent claim, are identically set forth in a single prior art reference. However, there is nothing in Mattaway that even suggests, let alone discloses, that the “Email signal” taught is equivalent to a

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"SMS message".

For the foregoing reason, Applicant submits that Mattaway does not disclose all of the elements of independent claims 22 and 27, and that therefore, Mattaway does not anticipate claims 22 and 27, nor claim 26 which is dependent on claim 22. Applicant therefore respectfully requests that the Examiner withdraw the 35 U.S.C. 102(e) rejections of claims 22, 26 and 27.

On page 3 of the Office Action, the Examiner has rejected claim 25 under U.S.C. 102(e) as being anticipated by Mattaway et al. (US Pat. No. 6,226,678 B1). For the reasons stated above, Applicant submits that Mattaway does not anticipate claim 22, and therefore Mattaway does not likewise anticipate claim 25, which is dependent on claim 22. Applicant therefore respectfully requests that the Examiner withdraw the 35 U.S.C. 102(e) rejection of claim 25.

Applicant notes the Examiner's indication on page 3 of Office action that claims 23, 24 and 28 are objected to. In the absence of any further reasons put forth by the Examiner with respect to the recitations of dependent claims 23, 24 and 28, Applicant has assumed that claims 23, 24 and 28 are objected to solely upon the basis of the 35 U.S.C. 102(e) rejections of claims 22 and 27.

Applicant submits, in view of the foregoing submission that Mattaway does not disclose all of the elements of independent claims 22 and 27, that Mattaway therefore does not disclose all of the elements of claims 23, 24 and 28 which depend therefrom. Applicant submits, in view of the amendments to claims 22 and 27, and the submissions above with respect to the Examiner's rejection of claims 22 and 27, that claims 23, 24 and 28 are allowable in their present form, and respectfully requests that the Examiner withdraw objections thereto.

Applicant believes that the Examiner's objections have been answered by all of the foregoing, and Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If there are any outstanding issues, the Examiner is respectfully requested to telephone the

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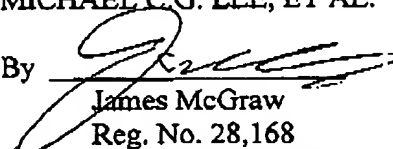
undersigned.

In view of the forgoing, early favorable consideration of this application is earnestly solicited.

Respectfully submitted,

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